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UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

Deep Kumar VOHRA

Petitioner,

v.

David STILL, in his Official Capacity, District Director, United States Department of Homeland Security, Bureau of Citizenship and Immigration Services, San Francisco, California;

Michael CHERTOFF, in his Official Capacity, Secretary, United States Department of Homeland Security

Respondents.

No. C 05-02723 SBA

STIPULATED MOTION FOR VOLUNTARY DISMISSAL WITHOUT PREJUDICE AND ORDER

1 On July 1, 2005, Petitioner filed a Petition for Review pursuant to 8 U.S.C. § 1447(b),
2 Immigration and Nationality Act (“INA”) § 336(b), seeking de novo judicial review of his
3 application for naturalization, requesting that the Court grant his application for naturalization or,
4 alternatively, order that a hearing take place in this matter, as Petitioner’s application remained
5 unadjudicated more than 120 days after the date of the naturalization examination.
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7 Counsel for Respondents is informed that the United States Citizenship and Immigration
8 Services (“CIS”) is prepared to adjudicate Petitioner’s naturalization application within 30 days
9 of the dismissal of this action. Pursuant to the Ninth Circuit’s decision in United States v.
10 Hovsepian, 359 F.3d 1144 (9th Cir. 2004), the CIS loses jurisdiction to adjudicate the
11 naturalization application of an alien who has a petition for de novo review of that application
12 pending before the District Court. Hovsepian, 359 F. 3d at 1162-1163; see also Bellajaro v.
13 Schiltgen, 378 F.3d 1042, 1046 (9th Cir. 2004). Accordingly, the parties hereby request that this
14 Court dismiss the pending petition to allow the CIS to adjudicate Petitioner’s application for
15 naturalization within 30 days of the dismissal, as Petitioner’s application has been pending for
16 approximately eighteen months since the date of his naturalization interview. The parties request
17 the dismissal occur without prejudice to allow the Petitioner to file a new petition should the CIS
18 again fail to timely adjudicate the application or should the application be denied.
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20 Each of the parties shall bear their own costs and fees.
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Dated: September 15, 2005

Respectfully submitted,

25 /s/
26 _____
27 Marc Van Der Hout
Zachary Nightingale
28 Attorneys for Petitioner

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3 _____/s/
Edward Olsen

4 Assistant United States Attorney
5 Attorney for Respondents

6 I declare under penalty of perjury that concurrence in the filing of this document has been
7 obtained from Edward Olsen.

8 Dated: September 15, 2005

9 _____/s/
10 Marc Van Der Hout

11 Pursuant to stipulation, IT IS SO ORDERED

12 Dated: 9-19-05

13 Hon. Saundra Armstrong
14 United States District Judge

